## REMARKS

[0002]   Applicant respectfully requests reconsideration and allowance of all of the claims of the application.  The status of the claims is as follows:

- Claims 1, 4-7, 11-16, 19, 25-29, 42-46, 50, 52-55, 59, and 61 are currently pending

- Claims 1, 11, 25, 42, 50, and 59 are amended herein


## Cited Documents

[0003]   The following documents have been applied to reject one or more claims of the Application:

- TechNet:   Microsoft Tech Net, "Remote Operating System Installation", 01/09/2009, http://technet.microsoft.com, Microsoft, September 1999, pp 1-28

- Computing.net:  "Installing a New Operating System", retrieved 7/21/2008 at <<http://www.computing.net/answers/windows-me/installing-a-new-operating-system/17954.html>>, Computing.Net, January 4, 2002, pp. 1-5

- Pawlak: Pawlak, "Software Update Service to Ease Patch Distribution", retrieved on Feb 28, 2007, at <<http://www.directionsonmicrosoft.com/sample/DOMIS /update/2002/05may/0502sustep.htm>>, Directions on Microsoft, 2002, pp 1-13

## Claims 1, 4-7, 11-16, 19, 59, and 61 Are Non-Obvious Over TechNet In View Of Computing.net

[0004]    Claims 1, 4-7, 11-16, 19, 59, and 61 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over TechNet in view of Computing.net.    Applicant respectfully traverses the rejection.


### *Independent Claim 1*

[0005]    In light of the amendments presented herein, Applicant submits that the rejection of independent claim 1 is moot.  Specifically, the cited references do not teach or suggest at least "wherein the new operating system and pre-installation environment are deployed at a same time to the target computer as components of an image deployment package."

[0006]    Rather, the cited references, specifically TechNet, disclose a Pre-installation Environment called "PXE" which is installed in a separate partition from the operating system (OS).  The PXE requests new OS images, receives the images, and installs them.  The other reference – Computing.net – is cited only as disclosing both an old and a new OS.

[0007]    Even in combination, however, the cited references do not teach or suggest that the pre-installation environment and "new operating system" are "deployed at a same time to the target computer as components of an image deployment package." Instead, the pre-installation environment of the cited references is installed prior to the new OS and requests the new OS.  Because the pre-installation environment is installed prior to the new OS in the cited references, one of skill in the art would not

think to modify the references to simultaneously provide the environment and new OS in one package. Thus, the cited references effectively teach away from simultaneous installation of the environment and new OS.

[0008]  Additionally, claim 1 recites "wherein the act of installing the pre-installation environment comprises installing the pre-installation environment in a same disk partition as an old operating system." As mentioned above, the cited references explicitly teach that the pre-installation environment is part of a different disk partition than an existing OS. Thus, the references teach the very opposite of installing a "pre-installation environment in a same disk partition as an old operating system."

[0009]  Lastly, on page 3 of the Response, in the section labeled "Response to Arguments", the Examiner states:

> Examiner would like to submit that the amendment fails to have the claim be in the patentable mode since the recitation is only addressing a generation of status reports. With more the report generation, it renders obviousness.

Applicant respectfully disagrees. The Examiner has only made a general allegation that the recitation of status reports does not overcome the cited references. The Examiner does not take official notice or point to any portion of any reference. In the text of the rejection of claim 1, for example, the Examiner does not point to any portion of any reference, or to official notice, as teaching or suggesting the status reports. As such, the rejections provided in this Office Action do not comply with the requirements of the CFR and MPEP. By law, the Examiner must point to some portion of a reference as teaching or suggesting each and every element of a claim. Rather than pointing to a reference, the Examiner may take official notice. But the Examiner has done neither of these things. Regardless of whether the Examiner's conclusion is correct (and

Applicants respectfully disagree with the Examiner's conclusion), the Examiner still has not met the requirements of the law. Accordingly, Applicant respectfully submits that the next action, if a rejection, must not be a final rejection.

[0010] Consequently, the cited references do not teach or suggest all of the elements and features of this claim. Accordingly, Applicant respectfully requests that the rejection of this claim be withdrawn.

## Independent Claims 11 and 59

[0011] These claims include recitations similar to those discussed above with regard to claim 1. Accordingly, claims 11 and 59 are patentable over the cited references for at least the same reasons.

## Dependent Claims 4-7, 12-16, 19, and 61

[0012] Claims 4-7, 12-16, 19, and 61 ultimately depend from independent claims 1, 11, and 59. As discussed above, claims 1, 11, and 59 are patentable over the cited documents. Therefore, claims 4-7, 12-16, 19, and 61 are also patentable over the cited documents of record for at least their dependency from a patentable base claim. These claims may also be patentable for the additional features that each recites.

## Claims 25-29, 42-46, 50, and 52-55 Are Non-Obvious Over TechNet In View Of Computing.net, And Further In View Of Pawlak

[0013]   Claims 25-29, 42-46, 50, and 52-55 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over TechNet in view of Computing.net, and further in view of Pawlak. Applicant respectfully traverses the rejection.

[0014]   Pawlak does not cure the deficiencies of TechNet and Computing.net discussed above with regard to claim 1. Accordingly, claim 1 would be patentable even over the combination of TechNet, Computing.net, and Pawlak.

[0015]   Claims 25, 42, and 50 include recitations similar to those discussed above with regard to claim 1. Accordingly, for at least the same reasons, claims 25, 42, and 50 are patentable over the cited references.

[0016]   Claims 26-29, 43-46, and 52-55 depend from claims 25, 42, and 50, respectively, incorporating their recitations. Accordingly, for at least the same reasons, claims 26-29, 43-46, and 52-55 are patentable over the cited references.

## Conclusion

[0017]    Applicant respectfully requests reconsideration and prompt issuance of the application.  If any issues remain that prevent issuance of this application, the Examiner is urged to contact the undersigned representative for the Applicant before issuing a subsequent Action.


Respectfully Submitted,

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